

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

Statement of Basis, Purpose, Substance, and Issues

Basis: This regulation is being promulgated in accordance with an amendment to **Basis:** This regulation is being promulgated in accordance with an amendment to **Basis:** This regulation is being promulgated in accordance with an amendment to ? 63.1-58.2 of the *Code of Virginia*, enacted on July 1, 1998, which requires the State Board of Social Services to promulgate regulations for operation of a statewide fraud control program.

Purpose: Through promulgation of this regulation, the State Board of Social Services is meeting the mandate of ? 63.1-58.2,2 of the *Code of Virginia*.

Substance: The proposed regulation provides a definition of terms used within its context, and names the statewide fraud program as the Fraud Reduction/Elimination Effort (FREE), to be called Fraud FREE. The regulation also requires local departments of social services to submit a local plan for operating Fraud FREE, and defines the basis on which initial staffing requests will be approved. It also prescribes the methodology by which requests for reimbursement will be evaluated after each locality's first year of operation.

Issues: In addition to requiring the Department to establish a statewide fraud control program, this amendment also requires local departments of social services to establish fraud prevention and investigation units insofar as money is appropriated. At least one director of a local department of social services has indicated dissatisfaction with issues surrounding Fraud FREE staff allocation and funding. Since the director represented the League of Social Service Executives on a work group formed to provide input on the Fraud FREE program design, the Department believes that his reaction represents the feelings of a good number of local directors.

\$750,000 was appropriated by the 1998 General Assembly, for the first year of the biennium, to assist local departments with program start-up costs. After the first year of operation, local departments will be required to fund their Fraud FREE program through collection of overpayments. The sponsor of the bill has stated that he believes local departments need to recover already established claims, and pursue pending fraud cases, to obtain the funding necessary to operate Fraud FREE.

A consensus was reached by the work group to use the Temporary Assistance for Needy Families (TANF) and the Food Stamp (FS) Program caseloads to determine the allocation of staffing for Fraud FREE. The rationale was that these two programs generate the

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

greatest percentage of referrals of questionable cases to be investigated. Local directors believe that the number of applications by each locality should also be taken into consideration, since the "prevention" aspect of Fraud FREE comes into play primarily in the application stage. The Department believes that applications are ultimately reflected in an agency's on-going caseload.

A second decision, made by the Department administration, was to reimburse for fraud investigators only, and not fund support staff. This decision, based on the limited funding and discussions with the bill's sponsor regarding his intent, has also generated discussion with local directors. One director has indicated that the League may meet with the bill's patron to determine what his "intent" was with regard to staffing and funding.

The Department's position is that, prior to this amendment, local departments were already required under both federal and state law to investigate cases of welfare fraud, and to recover all overpayments made in all programs (§ 63.1-124 and § 63.1-108 of the *Code of Virginia*). Therefore, Fraud FREE funding is to be used to enhance fraud control activities localities were already required to perform.

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

AUTHORITY TO PROMULGATE REGULATION

The regulation is essential to comply with §63.1-58.2 of the *Code of Virginia* which requires the State Board of Social Services to promulgate regulations for a statewide fraud program pursuant to subdivision C 5 (ii) of §9-6.14:4.1 of the *Code of Virginia*. The statewide fraud program shall be named the Fraud Reduction/Elimination Effort (FREE) Program.

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

CONSIDERATION OF ALTERNATIVES

Promulgation of this regulation is required by §63.1-58.2 of the *Code of Virginia* which requires the State Board of Social Services to promulgate regulations pursuant to subdivision C 5 (ii) of §9.6.14:4.1 of the *Code of Virginia*. There were no options available to the Department.

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

AGENCY REASONING FOR REGULATION

The regulation is essential to comply with §63.1-58.2 of the Code of Virginia which requires the State Board of Social Services to promulgate regulations pursuant to subdivision C 5 (ii) of §9-6.14:4.1 of the Code of Virginia.

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

STATEMENT OF NEED

An amendment to § 63.1-58.2 of the *Code of Virginia*, enacted on July 1, 1998, requires the Department of Social Services to establish a statewide fraud control and prevention program. § 63.1-58.2,2 requires the State Board of Social Services to promulgate regulations for operation of the program. The statewide fraud control and prevention program will be named the Fraud Reduction/Elimination Effort (FREE).

22 VAC 40-325

FRAUD REDUCTION/ELIMINATION EFFORT

CHANGES THAT PROPOSED REGULATION WILL IMPLEMENT

There are no existing regulations governing the statewide fraud program, and therefore the proposed regulation will implement no changes.